



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MOP - 176327

PRELIMINARY RECITALS

Pursuant to a petition filed on August 22, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services agency regarding Medical Assistance (MA), a hearing was held on September 19, 2016, by telephone.

The issue for determination is whether the agency properly determined that the petitioner is liable for a BadgerCare Plus/Medical Assistance overpayment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.

2. On February 24, 2016, the agency mailed the petitioner an “About Your Benefits” notice that informed her she was enrolled in BadgerCare Plus Standard Plan with no premium as of April 1, 2016. The notice also indicated that the petitioner was required to report certain changes, including “a new address” and “a change in where ...she is staying” within ten days.
3. Petitioner was incarcerated from April 27, 2016 until August 10, 2016. She did not notify the agency of her incarceration. Had she timely reported her incarceration, her enrollment in BadgerCare Plus would have ended as of June 1, 2016.
4. On or prior to July 18, 2016, the agency learned that the petitioner was incarcerated.
5. By notice dated August 2, 2016, the agency notified the petitioner that she had been overpaid \$403.62 in BadgerCare Plus benefits for the period of June 1, 2016 through July 31, 2016. That amount is the sum of capitation payments made by the state to the HMO in which the petitioner was enrolled in June and July of 2016.

DISCUSSION

The department may recover any overpayment of Medical Assistance/BadgerCare that occurs because of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. *The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements. [Emphasis added].*

Wis. Stat. § 49.497(1).

Here, the petitioner acknowledged that prior to her incarceration she received a written description of her reporting obligations from the agency; that she was in fact incarcerated from April 27 – August 10, 2016; that she communicated with family members while incarcerated; and that she did not report her change in living circumstances to the agency. The petitioner testified that she did not realize that she needed to contact the agency regarding her incarceration. While it is understandable that she may have forgotten or had other things on her mind during that timeframe, she received proper notification of her reporting obligations from the agency and she was able to communicate with family during her incarceration. It is thus reasonable to infer that she could have either directly, or with the help of family, reported her change in living circumstances to the agency.

Because inmates of public institutions are generally not eligible for BadgerCare Plus unless they are eligible for release under the Huber Law for the purpose of tending to the needs of family; are pregnant

and enrolled in the BadgerCare Plus Prenatal Program; or are released from a public institution for the purpose of obtaining inpatient treatment at a hospital, the petitioner's BadgerCare Plus eligibility would have been terminated as of June 1, 2016 had she timely reported her April 27, 2016 incarceration. See *BadgerCare Plus Eligibility Handbook* §3.6.

Departmental policy provides that when an overpayment occurs as a result of a petitioner losing eligibility, the overpayment amount is the amount of medical claims paid by the state and/or the capitation rate. See *BadgerCare Plus Eligibility Handbook* §28.4.2. The agency therefore properly assessed an overpayment for \$403.62, the amount of capitated payments made to the BadgerCare Plus HMO in which the petitioner remained enrolled in June and July of 2016.

CONCLUSIONS OF LAW

The agency properly determined that the petitioner is liable to repay an overpayment of BadgerCare Plus/Medical Assistance benefits because she failed to report a change in her living circumstances.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 22nd day of September, 2016

\s _____
Teresa A. Perez
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 22, 2016.

Brown County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability